



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, 7 नवम्बर, 1975/16 कार्तिक, 1897

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 7th November, 1975

No. LLR-D (6) 15/75.—The Himachal Pradesh Co-operative Societies (Amendment) Ordinance, 1975 (Ordinance No. 4 of 1975) promulgated by the Governor, Himachal Pradesh, under clause (1) of Article 213 of the Constitution of India on the 6th November, 1975, is hereby published in the Rajpatra, Himachal Pradesh, for the information of general public.

M. C. PADAM,
Under Secretary (Judicial).

Ordinance No. 4 of 1975.

THE HIMACHAL PRADESH CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE, 1975

Promulgated by the Governor of Himachal Pradesh in the Twenty-sixth Year of the Republic of India.

An Ordinance further to amend the Himachal Pradesh Co-operative Societies Act, 1958 (Act No. 3 of 1969).

Whereas the Legislative Assembly of Himachal Pradesh is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to promulgate the following Ordinance:—

Short title
and com-
mencement,

1. (1) This Ordinance may be called the Himachal Pradesh Co-operative Societies (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

Insertion of
new section
11-A.

2. After section 11 of the Himachal Pradesh Co-operative Societies Act, 1968 (hereinafter referred to as the principal Act), the following new section shall be inserted, namely:—

3 of 19

“11-A. *Power of the Registrar, to direct amendment of bye-laws.*—(1) If it appears to the Registrar that an amendment of bye-laws of a society is necessary or desirable in the public interest or in the interest of the society or in the interest of cooperative movement, he may call upon the society in writing to make the requisite amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard, register such amendment and issue to the society a copy of such amendment certified by him. With effect from the date of registration of such amendment in the aforesaid manner the bye-laws shall be deemed to have been duly amended and the bye-laws as amended shall be binding on the society and its members.

(3) The certified copy issued under sub-section (2) shall be conclusive evidence that the amendment has been duly registered.”

Insertion of
new section
14-A.

3. After section 14 of the principal Act, the following new section 14-A shall be inserted, namely:—

“14-A. *Power to direct amalgamation, conversion and re-organisation of societies.*—(1) Where the Registrar is satisfied that it is essential or desirable in the public interest or in the interest of co-operative movement or for the purpose of securing the proper management of any society or societies, that two or more societies should be amalgamated or should be re-organised or should be converted into

any other class of society or that any society or societies should transfer assets and liabilities thereof in whole or in part in equal proportion to the total assets and liabilities, to any other society, then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may order such amalgamation or re-organisation or conversion or transfer of assets and liabilities of such society or societies, as the case may be, and with such constitution, property, rights, interests, liabilities, duties and obligations as may be specified in the order.

- (2) No order shall be made under this section unless the Registrar, after inviting the suggestions and objections in writing from the concerned society or societies or members or creditors thereof and also the concerned financing Bank or Banks, has considered and made such modifications in the proposed order as may seem to him desirable in the light of such suggestions and objections, which may be received by him within sixty days from the date of inviting such suggestion and objection.
- (3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation or the re-organisation or the conversion or the transfer of assets and liabilities as the case may be.
- (4) Every member or creditor of such of the societies to be amalgamated or re-organised or converted or whose assets and liabilities are to be transferred, who has objected to the scheme of such an amalgamation or re-organisation or conversion or transfer of assets and liabilities under sub-section (2) of this section and his objection remains unsatisfied, within the period specified in the order, shall be entitled to receive his share or interest or deposit or loan or other dues, as the case may be.
- (5) On the issue of an order under sub-section (1) the provisions contained in sub-section (7) of section 14 shall apply to the Societies so amalgamated or re-organised as if such an amalgamation or re-organisation was made under that section."

4. For the existing section 35 of the principal Act, the following new section 35 shall be substituted and after section 35 so constituted, the following new section 35-A shall be inserted, namely:—

Substitution
of section
35 and
insertion of
section
35 A.

"35. *Nominees of the Government and other nominees on the committee of co-operative societies.*—(1) (a) Where the State Government:—

- (i) has subscribed to the share capital of a co-operative society; or
- (ii) has assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided under section 48; or
- (iii) has guaranteed the repayment of principal and payment of interest on loans and advances to a society;

the State Government or any authority specified by the State Government in this behalf shall have the right to nominate not

more than three members or one-third of the total number of the members of the committee of the Society whichever is less: **11**

Provided that where the Government has subscribed to the share capital of a co-operative society to the extent of five lakhs of rupees or more the Government may, notwithstanding anything contained in the bye-laws of the society, nominate another member in addition to those nominated in the aforesaid manner and appoint him as Managing Director.

- (b) Where the employer has contributed to the share capital of a co-operative society of his employees to the extent of rupees five thousand or more, the employer shall have right to nominate two members or one-third of the total members, whichever is less, on the committee of such society.
- (c) Where any financing institution notified in this behalf by the Government has provided finance to a co-operative society, such financing institution shall have the right to nominate one member on the committee.
- (2) A member nominated on the committee of a co-operative society under sub-section (1) shall hold office during the pleasure of the State Government or the specified authority or the employer or the financing institution, as the case may be.
- (3) Where in a co-operative society in which shares have been subscribed or liability by way of guarantee for borrowing has been undertaken by the Government, exceeding fifty per centum of the working capital of the society, a difference of opinion in respect of any matter arises between any member of the committee nominated under sub-section (1) (a) and other members thereof, the matter shall be referred by the committee to the Government whose decision thereon shall be final and will operate as if the same were a decision taken by the committee.

35-A. Power to Registrar of constitute new committee in certain cases.—

(1) Where in any co-operative society, a committee constituted in accordance with the provisions of this Act, rules and bye-laws does not exist, the Registrar may, notwithstanding anything to the contrary contained in this Act or rule or bye-laws, constitute by notification a committee for such society consisting of such number of members and not exceeding eleven out of whom not less than one-third shall be share-holders of such society, as he may deem fit:

Provided that if the number of the members of the committee so constituted is less than eleven, the Registrar may, from time to time, add a member or members to the committee.

- (2) A committee constituted under sub-section (1) shall be deemed to be a committee for all the purposes of this Act, rules and bye-laws and shall continue to function for a period of two years or until such period as a committee for such society is constituted in accordance with the provisions of this Act, rules and bye-laws, whichever expires earlier:

Provided that the Government may by notification extend the period of two years so as not to exceed in the aggregate three years."

5. For existing section 37 of the principal Act, the following section shall be substituted, namely:—

Substitution
of section
37.

“37. *Supersession of committee.*—(1) If, in the opinion of the Registrar, a committee of any co-operative society or any member thereof persistently makes default or is negligent in the performance of the duties imposed on it or him by this Act or the rules or the bye-laws or commits any act which is prejudicial to the interests of the society or its members, the Registrar, may, after giving such committee or member, as the case may be, an opportunity to state its or his objections, if any, by order in writing—

(a) remove the committee, and

(i) order fresh election to the committee, or

(ii) appoint one or more administrators who need not be members of the society, to manage the affairs of the society for a period not exceeding one year specified in the order which period may at the discretion of the Registrar, be extended from time to time, so however, that the aggregate period does not exceed five years; or

(b) remove the member and get the vacancy filled up for the remaining period of the outgoing member, according to the provisions of this Act, the rules and the bye-laws.

(1-A) Where the Registrar, while proceeding to take action under sub-section (1) is of the opinion that suspension of the committee or any member during the period of proceedings is necessary in the interest of the co-operative society, he may suspend such committee or member, as the case may be, and where the committee is suspended, make such arrangement as he thinks proper for the management of the affairs of the society till the proceedings are completed:

Provided that if the committee, member so suspended is not removed, it or he shall be re-instated and the period of suspension shall count towards its or his term.

(2) The Registrar may fix such remuneration for the administrator as he may think fit. Such remuneration shall be paid out of the funds of the society.

(3) The administrator shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have powers to perform all or any of the functions of the committee or of any officer of the society and take all such actions as may be required in the interest of the society.

(4) The administrator shall, at the expiry of his term of office arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(5) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult the financing institutions to which it is indebted.

(6) A member who is removed under sub-section (1) may be disqualified for being elected to any committee for such period not exceeding three years as the Registrar may fix and the said period shall commence after the expiry of the term of the committee from which he is removed.”

Amendment
of section
47.

6. The existing third proviso appearing in section 47 of the principal Act shall be substituted by the following proviso, namely:—

“Provided further that no charge on land need be created if the amount of loan advanced is less than such amount as may be fixed by the State Government from time to time by a notification and such loan may be allowed to any member on his furnishing two sureties from the fellow members.”.

Amendment
of section
52.

7. In sub-section (1) of section 52 of the principal Act, the words and sign coma “movable property”, shall be inserted after the words “a first charge upon” and before the words “the crops”.

Insertion of
section
90-A.

8. After section 90 of the principal Act, the following new section 90-A shall be inserted, namely:—

“90-A. *Recovery of crop loans.*—(1) Notwithstanding anything contained in section 72 or section 73 or section 87, a co-operative society undertaking the financing of crops or seasonal agricultural finance, may apply to the Registrar for the recovery of arrears of any sum advanced by the society to any of its members on account of the financing of crops or seasonal agricultural finance and shall attach with such application a statement of accounts in respect of such arrears.

(2) On receiving an application under sub-section (1), the Registrar may, after making such enquiries as he deems fit and after affording the member concerned an opportunity of being heard, grant a certificate for recovery of the amount stated therein to be due as such arrears.

(3) Where the Registrar is satisfied that a co-operative society has failed to take action under sub-section (1) against any of its members, the Registrar on his own motion, may after making such enquiries as he deems fit and affording an opportunity of being heard to the member concerned, proceed to grant a certificate referred to in sub-section (2).

(4) A certificate granted by the Registrar under this section shall be final and conclusive proof of the arrears due therein and the same shall be recoverable according to the law for the time being in force for the recovery of the arrears of land revenue.

Explanation.—For the purpose of this section the expression:—

(a) “financing of crops” means advancing of loans for raising of crop during the ploughing season or later for ploughing, sowing, harrowing, weeding, harvesting, purchase of seeds or manure or for such other agricultural purposes as may be prescribed, such loans being repayable during season when the crops for which the loans were advanced are harvested;

(b) “seasonal agricultural finance” means advancing of loans for such agricultural purposes as may be prescribed, such loans being repayable on or before such date as may be prescribed in this behalf by the State Government and different dates may be prescribed for different loans.”

9. In sub-section (1) of section 93 of the principal Act, the following amendments shall be made, namely:—

Amendment
of section
93.

- (a) the word “or” appearing after clause (j) shall be omitted.
- (b) the sign full stop appearing at the end of clause (k) shall be substituted with the sign— semicolon ;
- (c) after clause (k) so amended the following clause “(l)” and “(m)” shall be added; namely:—

“(l) an order of the Registrar made under sub-section (2) of section 11-A; or

(m) an order of the Registrar made under sub-section (1) of section 14-A.”

10. For sub-section (1) of section 98 of the principal Act, the following sub-section (1) shall be substituted, namely:—

Amendment
of section
98.

“(1)(a) There shall be a Council to be called the Himachal Pradesh State Co-operative Council consisting of the following members, namely:—

- (i) ministers, by whatever designation they may be called, dealing with the co-operative societies in the State;
 - (ii) chairman of apex societies ;
 - (iii) five members to be nominated by the State Government out of which one shall be a woman, one of a person belonging to a scheduled castes and one person belonging to a scheduled tribes ;
 - (iv) three members to be elected by the members of the Himachal Pradesh Legislative Assembly from amongst themselves;
 - (v) the Secretary to the Government in the department dealing with co-operative societies;
 - (vi) the Registrar of co-operative societies, Himachal Pradesh;
 - (vii) the Director of Agriculture, Himachal Pradesh; and
 - (viii) the Director of Industries, Himachal Pradesh.
- (b) The Minister-in-charge of the department dealing with the co-operative societies shall be the chairman of the Council.
- (c) The Minister of State, if he is not the chairman of the Council under clause (b) or in case there is no such Minister of State dealing with the co-operative societies, the Deputy Minister of the department of co-operative societies, shall be the Vice-chairman of the Council:

Provided that if there is no such Minister of State or the Deputy Minister dealing with the co-operative societies to be the Vice-chairman or if such Minister of State or the Deputy Minister, as the case may be, happens to be the chairman under clause (b) the Vice-chairman shall be elected by the Council from amongst its members.”

Amendment
of section
108.

11. In section 108 of the principal Act, the words and figures "under sections 94 and 95" shall be substituted by the words and figures "under sections 93, 94 and 95".

SIMLA:
The 6th November, 1975.

S. CHAKRAVARTI,
Governor.

T. R. HANDA,
Secretary (Law).

Simla-2, the 7th November, 1975

No. LLR-D(6)16/75.—The Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1975 (Ordinance No. 5 of 1975) promulgated by the Governor, Himachal Pradesh, under clause (1) of Article 213 of the Constitution of India on the 6th November, 1975, is hereby published in the Rajpatra, Himachal Pradesh, for the information of general public.

M. C. PADAM,
Under Secretary (Judicial).

Ordinance No. 5 of 1975.

THE HIMACHAL PRADESH PANCHAYATI RAJ (AMENDMENT) ORDINANCE, 1975

*Promulgated by the Governor of Himachal Pradesh in the Twenty-sixth Year
of the Republic of India.*

*An Ordinance further to amend the Himachal Pradesh Panchayati Raj Act,
1968 (Act No. 19 of 1970).*

Whereas, the Legislative Assembly of Himachal Pradesh is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to make and promulgate the following Ordinance:—

Short title
and com-
mencement.

1. (1) This Ordinance may be called the Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

Amendment
of sections
4, 5 and
48.

2. In sections 4, 5 and 48 of the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970) (hereinafter referred to as the principal Act), for the words, "by notification" wherever they occur the words, "by notification or otherwise" shall be substituted and shall be deemed always to have been substituted.

3. In sub-section (2) of section 5 of the principal Act, for the words "notified under sub-section (1)", the words "notified or established under sub-section (1)" shall be substituted, and shall be deemed always to have been substituted. Amendment of section 5.

4. In sub-section (3) of section 10 of the principal Act, for the words, "from the date of his or her taking of oath of such office", the words, "from the date of his or her election to such office" shall be substituted and shall be deemed always to have been substituted. Amendment of section 10.

5. For sub-section (2) of section 41 of the principal Act, the following sub-section shall be substituted, namely:— Amendment of section 41.

"(2) The Government shall in every financial year place at the disposal of the Director an amount equivalent to twenty per cent of the total annual land revenue realised within the State. The Director may appropriate this amount for discharging the liabilities of the Gram Panchayats and may allocate the remainder, if any, to the Gram Panchayats in such proportion as may from time to time be decided by the Government."

6. For section 118 of the principal Act, the following section shall be substituted, namely:— Amendment of section 118.

"118. The proceeds of local rate levied under section 116 shall be placed by the Government at the disposal of the Director, who may appropriate this amount for discharging the liabilities of the Gram Panchayats or Panchayat Samitis or both and may allocate the remainder if any, to the Gram Panchayats or Panchayat Samitis or both in such proportion as may from time to time be decided by the Government."

7. For clause (f) of sub-section (3) of section 139 of the principal Act, the following clause shall be substituted and shall be deemed always to have been substituted, namely:— Amendment of section 139.

"(f) persons to be co-opted as follows, in the prescribed manner:—

(i) two women out of the panches from the district if no woman is elected under clauses (a) and (b) of this sub-section:

Provided that if only one woman is so elected under clause (a) and clause (b) of this sub-section, then one more woman shall be co-opted;

(ii) two persons out of the panches from the district belonging to scheduled castes, if no such person is elected under clauses (a) and (b) of this sub-section:

Provided that if only one person belonging to scheduled caste is so elected under clauses (a) and (b) of this sub-section, then one more person belonging to scheduled caste shall be co-opted."

SIMLA:
The 6th November, 1975.

S. CHAKRAVARTI,
Governor.

T. R. HANDA,
Secretary (Law).

EDUCATION DEPARTMENT

CORRIGENDUM

Simla 171002, the 4th November, 1975

No. 6-10/75-Sectt. Edu. A.—In partial modification to this Department notification of even number, dated the 28th June, 1975, please *substitute* the word 'Chowog' for 'Station ward Boileauganj'.

B. B. TANDON,
Secretary (University Education).

GENERAL ADMINISTRATION DEPARTMENT
(C—SECTION)

NOTIFICATION

Simla-2, the 1st November, 1975

No. 3-5/74-GAC.—In exercise of the powers conferred/vested in him under section 6 of the Himachal Pradesh Land Revenue Act, 1954, the Governor, Himachal Pradesh is pleased to transfer Mohals Badaun and Bodan Dhar of Patwar Circle Batheri of Tehsil Joginder Nagar to the Kataula Patwar Circle of Tehsil Sadar in the Mandi district with effect from the 1st December, 1975.

By order,
U. N. SHARMA,
Chief Secretary.